

REMARKS

Claims 1-5 and 7-10 remain in the application, with claim 1 being in independent form.

The Examiner had withdrawn the previous rejections based on 35 U.S.C. § 102 and 103.

The Examiner issued new rejections based on the previous amendment.

The present application was filed on September 28, 2001 and derives from international application no. PCT/EP00/002379 having an international filing date of March 17, 2000. The international application claims priority to German application no. 199 14 420.6 having a filing date of March 30, 1999. Enclosed for the Examiner's review is a copy of the priority document and a certified translation into the English language of the priority document. Thus, the present application claims priority to the German application of March 30, 1999, which is the date for determining prior art.

The Examiner rejected claims 1-2, 5, 7-8 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Kennedy (US 6,630,249 B2) in view of Kennedy (US 6,050,208). The '249 reference was filed on May 11, 2001 and is a divisional of US application no. 09/496,072 filed on February 1, 2000; which is in turn a continuation-in-part of US application no. 09/053,551 filed on April 1, 1998 now abandoned; which is in turn is a continuation of US application no. 08/746,539, filed on November 13, 1996, now Pat. No. 5,778,813. A review of US pat no. 5,778,813 discloses that it does not contain the elements that the Examiner is relying on to support the rejection of the present claims under 35 U.S.C. § 103(a). Thus, the '249 patent has an effective filing date of February 1, 2000. Because the present application is entitled to a priority date of March 30, 1999 the '249 reference cannot be cited against it. Upon removal of

the '249 reference the rejection of claims 1-2, 5, 7-8, and 10 under 35 U.S.C. § 103(a) cannot be sustained based only on the secondary reference US pat no. 6,050,208, thus the rejection of these claims and the claims which depend therefrom is improper and must be withdrawn.

The Examiner further rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Kennedy '249 in view of Kennedy '208 as applied to claims 1-2, 5, 7-8, and 10 in further view of Oertel. Given the removal of the '249 patent the rejection of claims 3 and 4 under 35 U.S.C. § 103(a) based on the remaining references cannot be sustained thus the rejection of these claims is improper and must be withdrawn.

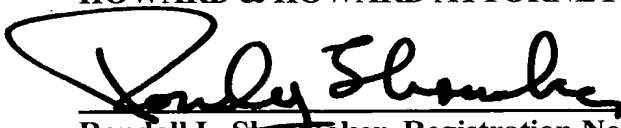
Applicants acknowledge Examiner's indication that claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, however, given the priority entitlement of the present application Applicants believe that the claims are now in condition for allowance.

Applicants' attorney respectfully submits that the claims as amended are now in condition for allowance and respectfully requests such allowance.

Respectfully submitted,

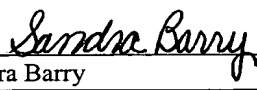
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5/20/04
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Sandra Barry